

FISCAL NOTE

Bill #: HB0643

Title: Eliminate smoking in enclosed public places

Primary Sponsor: Dowell, T.

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:		
State Special Revenue	\$293,716	\$108,300
Revenue:		
State Special Revenue	\$0	\$0
Net Impact on General Fund Balance:	\$0	\$0

- | | |
|--|--|
| <input type="checkbox"/> Significant Local Gov. Impact | <input checked="" type="checkbox"/> Technical Concerns |
| <input checked="" type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts |
| <input type="checkbox"/> Dedicated Revenue Form Attached | <input type="checkbox"/> Needs to be included in HB 2 |

Fiscal Analysis

ASSUMPTIONS:

1. The Department of Public Health and Human Services (DPHHS) assumes school officials will enforce tobacco prohibition in public schools or on public school property.
2. The bill does not address an effective date of legislation, other than for political subdivisions. Therefore DPHHS assumes an effective date of October 1, 2005.
3. The department assumes enactment of this bill will require the department to implement three phases for compliance:
 - a. Education for all enclosed public establishments in the State.
 - i. The department assumes initial public education will begin July 1, 2005 through September 30, 2005, prior to legislation taking effect.
 - ii. The department assumes education will include informational packets for distribution to establishments as well as a media campaign to inform the general public of this legislation.
 - b. Compliance of this act prohibiting smoking in all enclosed public establishments.
 - i. The department assumes this phase will begin on October 1, 2005.
 - ii. The department will have a dedicated toll-free telephone line for public use to register complaints of violations for department follow-up. Reported complaints are assumed to significantly reduce after the first twelve months of enactment of this legislation.

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- iii. Local county health board sanitarians or departmental designees will fill-out an observation form during their annual inspection of enclosed public places, primarily restaurants, gaming establishments or taverns and bars, to report non-compliance to the department for departmental follow-up.
 - c. Enforcement of this act prohibiting smoking in all enclosed public establishments.
 - i. The department assumes the first violation will result in mailing the establishment the information packet with a cautionary letter from the department.
 - ii. The department assumes the second violation will result in an educational visit to the establishment by the community tobacco contractor or departmental designee, who will report back to the department.
 - iii. Assumptions for further violations cannot be determined at this time. (See technical note #2)
4. Signage will be provided in accordance with section 4 part 2 to the proprietor or manager of the qualifying establishment, and section 4 part 3 to the proprietor or manager of an intrastate bus that is not chartered. Signage will be included in the informational packets that will be distributed.
5. Operating costs are estimated at \$294,366 for FY 2006 and include the following:
 - a. Dedicated toll-free telephone line \$500 to be managed by contract employee as well as current staff.
 - b. Contract employee services are estimated at \$13,520 (1,040 hrs x \$13/hr) to assist with the mass mailing, and answer enforcement calls.
 - c. Office equipment package \$1,793.
 - d. Computer package \$1,203.
 - e. Rent and supplies \$1,750.
 - f. Long distance phone \$600.
 - g. Printing and graphics for information packets \$50,000
 - h. Mailing of information packet \$25,000.
 - i. Media education campaign \$200,000.
 - j. Legal costs for administrative rule writing cannot be estimated. (See technical note #4)
6. Operating costs are estimated at \$108,300 for FY 2007 and include the following:
 - a. Dedicated toll-free telephone line \$500 to be managed by current tobacco prevention staff.
 - b. Long distance phone \$300.
 - c. Printing and graphics for information packets \$5,000.
 - d. Mailing of information packet \$2,500.
 - e. Media education campaign \$100,000.
7. It is assumed that the costs associated with this bill will be supported with state special revenue.

FISCAL IMPACT:

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$294,366	\$108,300
<u>Funding of Expenditures:</u>		
State Special Revenue (02)	\$294,366	\$108,300
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
State Special Revenue (02)	(\$294,366)	(\$108,300)

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments (political subdivisions) cannot readily be determined.

TECHNICAL NOTES:

1. The estimated costs of the activities in the above assumptions would be covered under the current proposed executive budget in the tobacco prevention program.
2. Section 5 requires DPHHS and local boards of health to enforce the smoking restrictions. The bill itself does not specify the nature of that enforcement. However, Section 50-1-103, MCA, empowers both county attorneys and the department to bring an enforcement action in court to enjoin a violation of public health laws, those contained in HB 643 included. Monetary penalties are not authorized under the bill; the current penalty provision in 50-40-109 is to be repealed.
3. The bill, because it does not have a special effective date, will take effect October 1, 2005. While Section 4 prohibits smoking in almost every enclosed public place, effective October 1, 2005, Section 6 defers the requirement for buildings owned by a political subdivision until January 1, 2006, and until July 1, 2006, for buildings leased and occupied by political subdivisions.
4. Section 8 requires DPHHS to adopt rules but contains no directives about the nature of those rules. It is unclear what rules would be necessary to implement the provisions of the bill.
5. This bill does not consider the competency of long-term care residents in nursing facilities who may be allowed to smoke in their bedrooms. There are 100 nursing homes with 7,533 beds.
6. Section 4 section 50-40-104 MCA (e) in its current amended state conflicts and/or will be impacted by federal Life Safety Code (LSC) requirements and standards. Compliance with the LSC is needed for long term care facilities to participate in the Medicare/Medicaid Program. Lack of compliance can result in sanctions by CMS (Centers for Medicare/Medicaid Services). These sanctions can result in negative financial impact and/or facility termination from the program.